IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 302 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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VADAWA VYAYAM MANDIR TRUST

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 302 of 2002

MR MK VAKHARIA for Petitioner No. 1-2

MR RV DESAI, AGP, for Respondent No. 1-2

MR JV MEHTA for Respondent No. 3,5-9

MR GR MALHOTRA for Respondent No. 3-9

NOTICE SERVED BY DS for Respondent No. 4

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 08/10/2002

ORAL JUDGEMENT

Rule. The learned counsel for the respective respondents waives service of rule on behalf of the respective respondents.

2. The present petition under Article 226 of the Constitution was filed for challenging the order dated 26-2-1999 passed by the Gujarat Primary Education Tribunal and also the order dated 29-6-2000 passed by the same Tribunal rejecting the petitioner's review applications.

3. The petitioner-trust was running a primary school in Bhavnagar. On account of financial difficulties, the school management could not comply with all the conditions of recognition and, therefore, the authorities under the Bombay Primary Education Act cancelled the recognition granted to the school. The petitioner had, therefore, to terminate the services of respondents No.3 to 9 herein (the teachers) on 22-4-1996. The teachers challenged their termination in various applications which came to be allowed by the Tribunal on 26-2-1999 directing the school management to pay the petitioner all the arrears of salary in the appropriate pay scales from 1986 to 1996 along with interest at the bank rate. The petitioner-management thereafter filed review applications which came to be rejected, as stated earlier, and, therefore, the present petition.

4. At the hearing of this petition, Mr MK Vakharia for the petitioner school management and Mr GR Malhotra for respondents No.3 to 9 state that the petitioner school management has already paid the arrears of salary as per the directions of the Tribunal but the only controversy now is about the rate of interest to be paid on the arrears already paid to the petitioner.

5. The learned counsel for respondents No.3 to 9 states that the said respondents had submitted before the Tribunal that they were agreeable to accept interest at the rate of 6% p.a. on the principal amount from the date on which the arrears were payable (1986) till the date of payment (2002).

6. On the other hand, Mr MK Vakharia for the petitioner management submits that the very fact that the petitioner management had to close down the school on account of financial difficulties which led to non-compliance with the conditions of recognition, such as payment of salaries to the teachers in the higher pay scales, no interest should be awarded for the period during which the applications were pending before the

Tribunal and that at the highest interest at the rate of 6% may be required to be paid only from the date on which the Tribunal dismissed the review applications i.e. from 29-6-2000 till the date of payment.

7. Having heard the learned counsel for the parties, it appears to the Court that in the facts and circumstances of the case and the financial difficulties faced by the petitioner-school management which ultimately led to closure of the school and having regard to the fact that the petitioner-management has already paid respondents No.3 to 9 all their dues as directed by the Tribunal i.e. salaries in the higher pay scales right from 1986 till the date of termination of their services in 1996, the interests of justice would be served if interest at the rate of 6%p.a. is awarded from the date of termination till the date of payment.

The amount of interest at the aforesaid rate shall be paid by the petitioner to respondents No.3 to 9 in six equal monthly installments, the first instalment shall commence from 1st November, 2002.

Except the modification of the rate of interest as aforesaid, no other prayers are granted in favour of the petitioner.

The impugned orders of the Tribunal shall accordingly stand modified as regards the direction for payment of interest. Rest of the orders are not disturbed.

8. The petition is accordingly partly allowed. Rule is made absolute to the aforesaid extent only with no order as to costs.

(M.S. Shah,J)

zgs/-